

**VIRGINIA BOARD OF EDUCATION GUIDELINES  
FOR IMPLEMENTATION OF NO CHILD LEFT BEHIND ACT OF 2001  
PUBLIC SCHOOL CHOICE REQUIREMENTS**

**Public School Choice Requirements of the No Child Left Behind Act of 2001:**

According to the No Child Left Behind Act of 2001, a local educational agency (school division) must identify for school improvement any elementary school or secondary school served under Title I that fails, for two consecutive years, to make adequate yearly progress. This requirement also applies to schools that are identified for improvement through transition from the previous Elementary and Secondary Education Act. For Virginia, Title I schools that have been *Accredited with Warning* in English and/or mathematics for two consecutive years prior to the enactment of the No Child Left Behind Act are those transitioned schools.

No later than the first day of the school year following school improvement identification, the local educational agency must provide all students enrolled in a Title I Schoolwide Program School and identified students enrolled in a Title I Targeted Assistance School, with the option to transfer to another public school served by the local educational agency, including a public charter school, that has not been identified for school improvement, unless such an option is prohibited by State law. In providing students the option to transfer to another public school, the local educational agency must give priority to the lowest achieving children from low-income families, as determined by the local educational agency. More specifically, the Act requires the following:

- The public school choice program shall not discriminate on the basis of race, color, national origin, sex, disability, or age and must be consistent with applicable civil rights commitments.
- The school division is obligated to fund transportation for the student to attend the alternative school.
- The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year, if the local educational agency determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.
- A school division must permit a child who transferred to another school to remain in that school until the child has completed the highest grade in that school.
- If a school division demonstrates that it cannot provide choice to all students in low-performing schools, the school division must permit as many students as possible to transfer to a school not identified for improvement, with priority given to the lowest performing students in the highest poverty schools.
- If all public schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the school division shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for transfer.
- Effective communication with parents must take place to inform them of the school choice opportunity.

**USED Office of Elementary and Secondary Education Guidance for Implementation of Public School Choice:**

- A school division has the flexibility to determine which schools, among those not identified for improvement, will comprise the schools to which students may transfer.
- A school division that has established an open enrollment policy may be found to meet the choice requirement, after examination of the policy.
- School divisions should consider offering supplemental education services or other choices in curriculum or instruction such as distance learning when choice is not possible.

**Virginia Demonstration of “Best Effort” Procedures for Implementation of Public School Choice:**

1. Identify the highest poverty schools in “School Improvement” status.
2. Identify and prioritize the lowest performing students in those schools to whom public school choice is to be offered.
3. Identify potential receiving schools, including available charter schools, closest in proximity to the schools in “School Improvement” status.
4. Explore scheduling alternatives, staffing alternatives, and space availability options at potential receiving schools.
5. Explore the feasibility of developing a charter school.
6. If providing choice within the school division is not possible after completing these procedures, contact school divisions in the area to establish a cooperative agreement for student transfer.
7. Document requests and responses from local school boards regarding the accepting of qualified students.